IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD NOVEMBER 2006 / 2ND AGRAHAYANA 1928

Crl.MC.No. 3869 of 2006()

SC.377/1998 of ADDL.ASSISTANT SESSIONS COURT, KOLLAM

.....

PETITIONER: ACCUSED:

THAMBI @ EMMANUEL, AGED 22 YEARS,
S/O.YESUDASAN, KANNITTA VADAKKATHIL,
KAVANADU P.O., KOLLAM.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAIANANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM REPRESENTING S.I. OF POLICE,
SAKTHIKULANGARA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3869 of 2006

Dated this the 23rd day of November 2006

O R D E R

The petitioner is accused No.5 in a prosecution interalia under Section 307 read with 149 I.P.C. The crime was registered as early as in 1997 and the Sessions case was registered in 1998. The petitioner was not available for trial. One of the co-accused has already been tried, found not guilty and acquitted. The case against the petitioner and some other co-accused has not been taken up for trial, consequent to non-availability of the accused persons. To secure the presence of the petitioner, a warrant of arrest has been issued by the learned Magistrate.

2. The petitioner submits that his failure/inability to appear before the learned Additional Sessions Judge was not wilful and was due to reasons beyond his control. He now wants to appear before the learned Additional Sessions Judge. He apprehends that he may not be enlarged on bail. In these circumstances, he prays that there may be a direction to release him on bail when he surrenders before the learned Additional Sessions Judge.

3. It is for the petitioner to appear before the learned Judge and explain to the learned Judge, the circumstances under which the

petitioner could not earlier appear before the court. I have no reason to assume that the learned Judge shall not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same even without any specific directions. Sufficient general directions have already been issued in Alice Geroge vs. Deputy Superintendent of Police [2003(1) KLT 339]. I am in these circumstances satisfied that no specific directions need be issued in this case to release the petitioner on bail.

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the learned Public Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006